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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,717	01/02/2001	Cecile Bebot	05725.0826-00	1012

7590

02/11/2002

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EXAMINER

KOSS, ANN MARIE

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 02/11/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,717

Applicant(s)

BETBOT, CECILE

Examiner

Ann-Marie Koss

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 02 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-91 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

- I. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-54 and 67-69 are drawn to a composition for the oxidative dyeing of keratin fibers, classified in class 8, subclass 409.
 - II. Claims 55-57, and 70 are drawn to a method for dyeing keratin fibers, classified in class 8, subclass 408
 - III. Claims 58-60 and 71 are drawn to a method for dyeing keratin fibers, classified in class 8, subclass 408.
 - IV. Claims 61-63, and 72 are drawn to a method for dyeing keratin fibers, classified in class 8, subclass 408.
 - V. Claims 64-66, and 73 are drawn to a kit for dyeing keratin fibers, classified in class 8, subclass 404.
 - VI. Claims 74-76 are drawn to a method for dyeing keratin fibers, classified in class 8, subclass 404.
 - VII. Claims 77-79 are drawn to a method for dyeing keratin fibers, classified in class 8, subclass 404.
 - VIII. Claims 80-82 are drawn to a kit for dyeing keratin fibers, classified in class 8, subclass 404.
 - IX. Claims 83-85 are drawn to a kit for dyeing keratin fibers, classified in class 8, subclass 404.
 - X. Claims 86-88 are drawn to a kit for dyeing keratin fibers, classified in class 8, subclass 404.
 - XI. Claims 89-91 are drawn to a kit for dyeing keratin fibers, classified in class 8, subclass 404.

The inventions are distinct, each from the other because of the following reasons:

Art Unit: 1751

2. Inventions I and II or III or IV or VI or VII are related as product and process of use. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process as claimed could be used to make other and materially different product such as one used to dye textiles.

3. Inventions II-XI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions and effects because the particulars of the kit are not required for the method of using the product.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. A telephone call was made to Michele Bosch on February 4, 2002 to request an oral election to the above restriction requirement, but did not result in an election being made.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann-Marie Koss whose telephone number is (703) 305-3176. The examiner can normally be reached on Mondays-Fridays 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the

Application/Control Number: 09/750,717

Page 4

Art Unit: 1751

organization where this application or proceeding is assigned are (703) 305-6078 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

amk

February 8, 2002

Lorna M. Douyon
LORNA M. DOUYON
PRIMARY EXAMINER